

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

**SAUNDRA A. FERRELL,**

**Plaintiff,**

**v.**

**Civil Action No. 2:07cv55**

**DONNA ZICKEFOOSE,**

**Defendant.**

**ORDER**

It will be recalled that on March 25, 2008, Magistrate Judge James E. Seibert filed his Report and Recommendation, wherein the Plaintiff was directed, in accordance with 28 U.S.C. § 636(b)(1), to file with the Clerk of Court any written objections within ten (10) days after being served with a copy of the Report and Recommendation. No objections to the Magistrate Judge's Report and Recommendation have been filed. Accordingly, the Court will proceed with consideration of the Report and Recommendation reviewing for clear error.<sup>1</sup>

Upon examination of the report from the Magistrate Judge, it appears to the Court that the issues raised by the Plaintiff's Complaint<sup>2</sup> were thoroughly considered by Magistrate Judge Seibert in his Report and Recommendation. Moreover, the Court, upon a review for clear error, is of the opinion that the Report and Recommendation

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<sup>1</sup>The failure of a party to object to a Report and Recommendation waives the party's right to appeal from a judgment of this Court based thereon and, additionally, relieves the Court of any obligation to conduct a *de novo* review of the issues presented. See Wells v. Shriners Hospital, 109 F.3d 198, 199-200 (4<sup>th</sup> Cir. 1997); Thomas v. Arn, 474 U.S. 140, 148-153 (1985).

<sup>2</sup> Plaintiff's Complaint was brought pursuant to Federal Tort Claim Act, wherein Plaintiff alleges that, due to the negligence of a prison employee, various items of her personal property were lost or stolen while she was in the Special Housing Unit.

accurately reflects the law applicable to the facts and circumstances before the Court in this action. Therefore, it is

**ORDERED** that Magistrate Judge Seibert's Report and Recommendation be, and the same hereby is, accepted in whole and that this civil action be disposed of in accordance with the recommendation of the Magistrate Judge. Accordingly, it is

**ORDERED** that the Plaintiff's Complaint under the Federal Tort Claims Act be, and the same hereby is, **DISMISSED with prejudice** for failure to state a claim upon which relief can be granted. It is further

**ORDERED** that the above-styled action shall be **STRICKEN** from the docket of this Court. It is further

**ORDERED** that the Clerk shall enter judgment for the Defendant. It is further

**ORDERED** that, if Plaintiff should desire to appeal the decision of this Court, written notice of appeal must be received by the Clerk of this Court within thirty (30) days from the date of the entry of the Judgment Order, pursuant to Rule 4 of the Federal Rules of Appellate Procedure. The \$5.00 filing fee for the notice of appeal and the \$450.00 docketing fee should also be submitted with the notice of appeal. In the alternative, at the time the notice of appeal is submitted, Plaintiff may, in accordance with the provisions of Rule 24(a) of the Federal Rules of Appellate Procedure, seek leave to proceed in forma pauperis from the United States Court of Appeals for the Fourth Circuit.

**ENTER:** October 7<sup>th</sup>, 2008

/s/ Robert E. Maxwell  
United States District Judge